

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, December 3, 1958.

Chapter 65. Regulation 18C Non-Profit Funeral Service Associations, Reinstatement of Lapsed Policies

§6501. Policy Directive Number Five to Non-Profit Funeral Service Associations

A. It has come to the attention of the Insurance Department that some non-profit funeral service associations are now reinstating policies which have been lapsed for many years. This is contrary to the insurance laws.

B. A survey of the non-profit association's charters and by-laws, if by-laws are on file with the Secretary of State, reveals that the most favorable reinstatement provisions allow reinstatement of lapsed policies within 90 days from date of lapse, provided all past due assessments are paid. In most cases the by-laws are silent with regard to reinstatement.

C. Lapsed policies may be reinstated only in accordance with the by-laws of the association. A policyholder whose policy has lapsed and who is over the age of 70 and under the age of 90 may reinstate only in the old age group. In the absence of the charter or by-laws pertaining to reinstatement, no lapsed policies may be reinstated.

D. All changes in the charter or by-laws of non-profit funeral service associations must be approved by the Commissioner of Insurance. No amendments to by-laws concerning reinstatement of lapsed policies will be approved, which allows for reinstatement after 90 days from date of lapse.

E. All non-profit funeral service associations must cease reinstating lapsed policies which are issued on the assessment plan except in accordance with their present by-laws. This directive is effective May 1, 1960.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, April 28, 1960.

Chapter 67. Regulation 19C Inclusion of Burial Plots, Vaults, etc., as Part of Funeral ServiceC Change in Reserve Basis

§6701. Policy Directive Number Six to All Insurance Issuing Funeral Policies

A. The provisions of House Bill 322 will become effective on or about August 1, 1962. This bill amends Section 253 of the Insurance Code by adding Subsection A thereto:

ALL POLICIES, ENDORSEMENTS OR RIDERS NOW IN YOUR POSSESSION WHICH INCLUDE PAYMENT OR FURNISHING OF BURIAL LOT, TOMBSTONE, MARKER, PLOT, TOMB, VAULT OR COPING ARE NOW DISAPPROVED. SUCH CONTRACTS MUST BE RESUBMITTED TO THE INSURANCE DEPARTMENT FOR APPROVAL IN ACCORDANCE WITH THIS DIRECTIVE.

B. For your information, the new Section 253 of the Insurance Code will read as follows:

Section 253C Funeral Described: Cost Provision

Every funeral policy shall state, in dollars, the value of the funeral and shall specify therein those things which shall constitute the funeral to be furnished, and shall provide for a stated cash payment which shall not be less than seventy-five per cent of the value of the funeral as stated in the policy in lieu of such funeral in the event it is impossible or impractical to furnish such services as set forth in the policy.

A. Every funeral policy which includes among its benefits the payment for a burial lot, tombstone, marker, plot, tomb, vault or coping shall state in dollars the value of the said benefits and shall specify herein those things which shall constitute the said benefits to be furnished. Such policy shall be valued without the reduction of reserves provided for in R.S. 22:162. In the event such services are not furnished or paid for by the insurer then the amount of insurance shall be paid in cash to the beneficiary by the insurer, at the option of the beneficiary.

C. The effect of this legislation is to require that any funeral policy which includes any burial plot, tombstone, marker, plot, tomb, vault or coping must be reserved on a 100 percent basis, and if the official funeral director is not used, 100 percent of the benefits promised by the insurance contract must be paid in cash to the beneficiary.

D. Therefore, all policies, endorsements or riders now in your possession which include the above enumerated benefits, and which may have been heretofore approved, are now disapproved. No funeral policy which includes any of the above benefits shall be issued until such policy has been submitted to and approved by the Insurance Department.

E. No endorsement, rider or attachment of any kind which includes any of the above described benefits shall be used in this state until after it and the policy to which it will be attached have been submitted together to and approved by the Insurance Department.

F. Any company wishing to issue such policies may write or come to the Insurance Department concerning any provision of such policy which may be in doubt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, July 9, 1962.

Chapter 69. Regulation 21CSpecial Policies and Provisions: Prohibitions, Regulations, and Disclosure Requirements

§6901. Policy Directive Number Seven to All Companies Authorized to Write Life Insurance in the State of Louisiana

A. Authority and Purpose

1. This directive is issued under the authority granted to the Insurance Commissioner by the *Louisiana Insurance Code* for the purpose of protecting the Louisiana insurance-buying public and the insurers from the effect of sales of certain types of insurance policies which experience has

shown, in this and other states, has not been in the public interest.

2. Effective November 12, 1962, no policy of the type described in §6901.A.3 shall be approved for use in the state of Louisiana. Any such policy of the type described in §6901.A.3 which has heretofore been approved for use in Louisiana shall not be used after March 1, 1963, the approval of such form being specifically revoked on such date.

3.a. A policy form which guarantees a certain amount each year, either level or variable, where such amount is predicated upon a specified number of shares of stock of the company. Such forms usually provide that a certain amount is payable to the owner of the policy, usually upon payment of the second annual premium, or it will provide that the owner of the policy receive the same amount of money as the dividend which is declared upon a given number of shares of stock of the company during the year.

b. A policy which usually has some identifying language indicating that it will be made available to a limited number of persons or sold in specifically predetermined numbers of units of fixed dollar amounts. Also, any policy form which contains provisions representing that the policyholder will be eligible to participate, with special advantage not available to persons holding other types of participating or nonparticipating policies issued by the same company, in any future distribution of general company profits. Such forms are often so drafted that it appears to a prospective policyholder that he is purchasing a preferential share of future profits and earnings of the company, rather than purchasing life insurance policies which may be subject to refunds of premiums.

i. Every participating contract shall stipulate that dividends, if any, shall be ascertained and apportioned by the Board of Directors, and shall not specify the sources of such dividends.

c. Any policy for which an extra premium is paid which is not used to purchase insurance but where such extra premium is set aside in a fund which is to be invested by the insurer for the benefit of the policyholders holding this type of contract. Dividends or guaranteed allocations or coupons used in connection with the policy are used to purchase stock in business corporations or other insurance companies for the exclusive benefit of the purchasers of the policies. Such policies contain language wherein it is indicated that dividends and capital gains from stock purchased with the excess portion of the premium paid for the policy are to be accumulated and distributed exclusively to those policyholders who continue to be such to the end of a specified period of time. Those persons who, for one reason or another, terminate or lapse their policies, or if the face amount of the policy is paid by reason of death of the insured, do not participate in the final distribution of the funds, although they may have contributed substantially to its formation.

4. Policies of the type described in §6901.A.3 generally purport to provide a means to an end result that is not authorized by statute, and in many cases, an end result that is without reasonable expectation of achievement. Such policies usually represent as an inducement to the purchase of insurance that the person who buys such a policy is procuring a preferential interest in the future profits and earnings of the insurance company. Inasmuch as distribution of earnings, profits or surplus must be fair and equitable to all policyholders, and must not discriminate unfairly between individuals of the same class and equal expectation of life, policies containing such provisions will henceforth be considered as contrary to statute and the public interest.

a. It is also in the public interest that every policy of life insurance should bear in a prominent place a reasonably accurate brief description of the nature of the insurance contract afforded by the insurance policy. To that end, phrases as "profit sharing", "charter plan", "Founder's Plan" and other such words and phrases when used in connection with any type of life insurance policy shall be deemed to be misleading and ambiguous and a violation of the insurance statutes of this state.

5. Insurance policies which include a series of coupons or additional benefits featured in combination with an insurance contract will be permitted in this state. Such coupons are usually pure endowments, and are essentially a return of a portion of the premium which the policyholder has already paid. This being true, they should be properly identified as such. Therefore, the policy shall state that a portion of the premium charged is for the coupon benefit. Such language shall be prominently displayed in proximity to the language used to set forth the consideration for the policy.

a. For policies issued under R.S. 22:163, the reserves and nonforfeiture values of such policies must be so calculated that the present value of the pure endowments represented by the coupons, on the same mortality table and interest rate as the policy, are included in the calculation of the nonforfeiture factors, the first year and net renewal premiums and the reserves and non-forfeiture values, but shall be excluded in the calculation of the equivalent level amount.

b. For policies issued under R.S. 22:162(C), the calculations under ordinary insurance shall conform to Illinois Standard Valuation or shall produce reserves equivalent to such standard. The Illinois Standard referred to reads as follows:

"If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy or under an endowment preliminary term policy, exceeds that charged for like insurance under twenty-payment life preliminary term policies of the same company, the reserve thereon at the end of any year, including first, shall not be less than the reserve on a twenty-payment life preliminary term policy issued in the same year and at the same age together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the

value at the end of such period of such twenty-payment life preliminary term policy and the full reserve at such time of such a limited payment life or endowment policy. The premium-payment period is the period during which premiums are concurrently payable under such twenty-payment life preliminary term policy and such limited-payment life or endowment policy."

c. The premiums referred to shall be construed to mean net premiums so as to make the law's application uniform for all companies. The new 20-payment life premium, on the full one-year preliminary term basis, is thus made the measure for determining whether the premium for, and the valuation of, other plans of insurance shall be upon the full preliminary term basis or the twenty-payment life preliminary term basis. Therefore, the basis is determined not so much by plan of insurance as by relative size of premium at the age of issue.

d. In order that the Insurance Department may be sure that this directive is complied with, each such form which is filed must include a complete and detailed description of the actuarial basis of the policy together with formulae and calculations for at least one specimen age. Also the cover letter must certify that the recommendations of the Hooker Committee have been complied with for policies issued under R.S. 22:163.

6. Before consideration will be given to any policy, the letter of transmittal must contain a certification by an executive officer that such policy has been approved by the insurer's domiciliary state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:162(C) and 22:163.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, October 1, 1962.

Chapter 71. Regulation 24C Proxies, Consents and Authorizations of Domestic Stock Insurers

§7101. Application of Regulation

A. This regulation is applicable to each domestic stock insurer which has any class of equity security held of record by 100 or more persons; provided, however, that this regulation shall not apply to any insurer if 95 percent or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than five hundred persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable regulations promulgated thereunder, shall be exempt from the provisions of this regulation with respect to any class of securities subject to SEC jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1525 and 22:1533.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 17, 1965, amended April 1, 1967.

§7103. Proxies, Consents and Authorizations

A. No domestic stock insurer, or any director, officer or employee of such insurer subject to §7101, or any other person, shall solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any class of equity security of such insurer held of record by one hundred or more persons in contravention of this regulation and §§7123 and 7125, Schedules A and B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1525 and 22:1533.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 17, 1965, amended April 1, 1967.

§7105. Disclosure of Equivalent Information

A. Unless proxies, consents or authorizations in respect of any class of equity security of a domestic insurer subject to §7101 hereof are solicited by or on behalf of the management of such insurer from the holders of record of such security in accordance with this regulation and the Schedules hereunder prior to any annual or other meeting of such security holders, such insurer shall, in accordance with this regulation and such further regulations as the commissioner may adopt, file with the commissioner and transmit to all security holders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made. Such insurer shall transmit a written information statement containing the information specified in §7109.D to every security holder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of the insurer; provided, that in the case of a class of securities in unregistered or bearer form such statement need be transmitted only to those security holders whose names and addresses are known to the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1525 and 22:1533.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 17, 1965, amended April 1, 1967.

§7107. Definitions

A. The definitions and instructions set out in Schedule SIS, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purposes of this regulation.

Solicit and Solicitation C for purposes of this regulation shall include:

- a. any request for a proxy, whether or not accompanied by or included in a form of proxy; or
- b. any request to execute or not to execute, or to revoke, a proxy;
- c. the furnishing of a proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.